

Senate File 464 - Introduced

SENATE FILE _____
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SSB 1313)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to motor fuel containing biodiesel, providing for
2 tax credits, making penalties applicable, and including
3 effective date and applicability provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 2135SZ 83
6 da/rj/14

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1 1 DIVISION I
1 2 BIODIESEL FUEL STANDARD
1 3 Section 1. Section 214A.2, subsection 4, paragraph b,
1 4 subparagraph (2), Code 2009, is amended by striking the
1 5 subparagraph.
1 6 Sec. 2. NEW SECTION. 214A.2C STANDARD FOR DIESEL FUEL ==
1 7 BIODIESEL REQUIRED.
1 8 1. A retail dealer shall not advertise for sale or sell
1 9 diesel fuel in this state, unless it is biodiesel fuel.
1 10 2. a. Subsection 1 does not apply to any of the
1 11 following:
1 12 (1) Motors located at an electric generating plant
1 13 regulated by the nuclear regulatory commission. This
1 14 exception shall no longer apply thirty days after the nuclear
1 15 regulatory commission approves the use of biodiesel fuel in
1 16 motors at electric generating plants.
1 17 (2) Railroad locomotives.
1 18 (3) Off-road logging equipment and machinery.
1 19 (4) Vehicles and equipment used exclusively on an aircraft
1 20 landing field.
1 21 b. This subsection is repealed on July 1, 2012.
1 22 Sec. 3. NEW SECTION. 214A.2D STANDARD FOR DIESEL FUEL ==
1 23 BIODIESEL DESIGNATIONS.
1 24 1. A retail dealer shall not advertise or sell biodiesel
1 25 blended fuel unless it is designated B=5 or higher as
1 26 specified in section 214A.2.
1 27 2. The biodiesel blended fuel designation provided in
1 28 subsection 1 shall increase to B=10 or higher as specified in
1 29 section 214A.2 commencing on July 1, 2012, at the beginning of
1 30 the threshold period.
1 31 3. a. Notwithstanding subsection 2, a retail dealer is
1 32 not required to advertise for sale or sell biodiesel blended
1 33 fuel designated as higher than B=5 during the cold weather
1 34 months beginning November 1 and ending March 31.
1 35 b. The department may issue a cold weather suspension
2 1 order that suspends the application of paragraph "a" during
2 2 some or all of the threshold period and establish one or more
2 3 temporary biodiesel blended fuel designations applicable for
2 4 the period so long as a biodiesel blended fuel designation is
2 5 not less than B=5 and not more than the biodiesel blended fuel
2 6 designation that would otherwise apply during the threshold
2 7 period. The cold weather suspension order shall be published
2 8 in the Iowa administrative bulletin and take effect as
2 9 provided by the department. Prior to issuing the order, the
2 10 department shall consult with the committee.
2 11 4. a. The department may issue a threshold suspension
2 12 order suspending the application of a biodiesel designation
2 13 during the threshold period as provided in subsection 2, if
2 14 the department determines that any of the following apply:
2 15 (1) Less than five percent of the biodiesel blended fuel

2 16 expected to be sold in this state during the threshold period
2 17 will be produced from a nontraditional feedstock which is a
2 18 biological resource other than an agricultural resource
2 19 traditionally grown or raised in the state, including but not
2 20 limited to algae cultivated for biofuels production, waste
2 21 oils, and tallow.

2 22 (2) No specification established by the United States
2 23 environmental protection agency or A.S.T.M. international
2 24 applies to the biodiesel designation required during the
2 25 threshold period.

2 26 b. The threshold suspension order shall apply during some
2 27 or all of the threshold period and may establish one or more
2 28 temporary biodiesel blended fuel designations applicable for
2 29 the period of suspension so long as the temporary biodiesel
2 30 blended fuel designation is not less than B=5 and not more
2 31 than the biodiesel blended fuel designation that would
2 32 otherwise apply during the threshold period. The threshold
2 33 suspension order shall be published in the Iowa administrative
2 34 bulletin and take effect as provided by the department. Prior
2 35 to issuing the threshold suspension order, the department
3 1 shall consult with the committee.

3 2 5. The department may issue a threshold suspension order
3 3 suspending the application of a biodiesel designation for a
3 4 motor under the control of the nuclear regulatory commission
3 5 during the threshold period, if the nuclear regulatory
3 6 commission has not approved the use of the biodiesel
3 7 designation required during the threshold period. The
3 8 threshold suspension order shall be published in the Iowa
3 9 administrative bulletin and take effect as provided by the
3 10 department. Prior to issuing the threshold suspension order,
3 11 the department shall consult with the committee.

3 12 6. The governor may by executive order adjust the
3 13 biodiesel blended fuel designation as provided in this
3 14 section, if the governor determines that there exists a major
3 15 disparity between the price of biodiesel blended fuel and
3 16 diesel fuel, there is a significant shortage of biodiesel fuel
3 17 supplies in this state, or a systemic market change will cause
3 18 material economic hardship to retail dealers who advertise and
3 19 sell biodiesel blended fuel in this state which can be
3 20 alleviated by adjusting the biodiesel blended fuel. The
3 21 adjusted biodiesel blended fuel designation shall not be less
3 22 than B=5 and not more than the biodiesel blended fuel
3 23 designation that would otherwise apply during the threshold
3 24 period. The executive order shall provide for the termination
3 25 of the adjusted biodiesel blended fuel designation by a date
3 26 certain. After the executive order's termination, the
3 27 biodiesel blended fuel designation shall be restored to the
3 28 amount required for the threshold period.

3 29 Sec. 4. EMERGENCY RULES. The department of agriculture
3 30 and land stewardship shall adopt emergency rules under section
3 31 17A.4, subsection 3, and section 17A.5, subsection 2,
3 32 paragraph "b", to implement the provisions of sections 214A.2C
3 33 and 214A.2D, as enacted in this Act, and the rules shall be
3 34 effective July 1, 2009. Any rules adopted in accordance with
3 35 this section shall also be published as a notice of intended
4 1 action as provided in section 17A.4.

4 2 Sec. 5. EFFECTIVE DATE. This division of this Act takes
4 3 effect on July 1, 2009, except for the provisions authorizing
4 4 the department of agriculture and land stewardship to adopt
4 5 emergency rules and to publish a notice of intended action to
4 6 implement the provisions of sections 214A.2C and 214A.2D, as
4 7 enacted in this Act, which, being deemed of immediate
4 8 importance, take effect upon enactment.

4 9 DIVISION II 4 10 BIODIESEL FUEL LABELING

4 11 Sec. 6. Section 214A.2, subsection 5, Code 2009, is
4 12 amended to read as follows:

4 13 5. Ethanol blended gasoline shall be designated E=xx where
4 14 "xx" is the volume percent of ethanol in the ethanol blended
4 15 gasoline and biodiesel blended fuel shall be designated B=xx
4 16 where "xx" is the volume percent of biodiesel.

4 17 Sec. 7. Section 214A.16, subsection 1, Code 2009, is
4 18 amended to read as follows:

4 19 1. ~~a. If motor fuel containing a renewable fuel ethanol~~
4 20 ~~blended gasoline is sold from a motor fuel pump, the pump~~
4 21 ~~shall have affixed a decal identifying the name of the~~
4 22 ~~renewable fuel ethanol blended gasoline. The decal shall be~~
4 23 ~~different based on the type of renewable fuel dispensed. If~~
4 24 ~~the motor fuel pump dispenses ethanol blended gasoline~~
4 25 ~~classified as higher than standard ethanol blended gasoline~~
4 26 ~~pursuant to section 214A.2, the decal shall contain the~~

4 27 following notice: "FOR FLEXIBLE FUEL VEHICLES ONLY".
4 28 b. If biodiesel fuel is sold from a motor fuel pump, the
4 29 pump shall have affixed a decal identifying the biodiesel fuel
4 30 as provided in 16 C.F.R. pt. 306.

4 31 DIVISION III

4 32 BIODIESEL BLENDED FUEL TAX CREDIT

4 33 Sec. 8. Section 422.33, subsection 11C, Code 2009, is
4 34 amended by striking the subsection.

4 35 Sec. 9. 2006 Iowa Acts, chapter 1142, section 49,
5 1 subsection 5, is amended by striking the subsection.

5 2 Sec. 10. Section 422.11P, Code 2009, is repealed.

5 3 Sec. 11. APPLICABILITY. The sections of this division of
5 4 this Act striking section 422.33, subsection 11C, striking
5 5 2006 Iowa Acts, chapter 49, subsection 5, and repealing
5 6 422.11P, apply to a taxpayer claiming a biodiesel tax credit
5 7 for sales of biodiesel blended fuel sold or dispensed on or
5 8 after the effective date of this division of this Act.

5 9 EXPLANATION

5 10 DIVISION I == BIODIESEL FUEL STANDARD. This bill applies
5 11 to the retail sale of diesel fuel as regulated by the
5 12 department of agriculture and land stewardship under Code
5 13 chapter 214A, and specifically biodiesel fuel derived from
5 14 vegetable oils or animal fats that meet departmental standards
5 15 (Code section 214A.2). Biodiesel fuel is designated by "B=xx"
5 16 where "xx" is the volume percent of biodiesel by volume.
5 17 Currently, all biodiesel fuel must be at least B=1 (Code
5 18 section 214A.2).

5 19 The bill prohibits a retail dealer from advertising for the
5 20 sale or selling diesel fuel unless it is biodiesel fuel. The
5 21 bill provides for a number of exceptions, including for motors
5 22 located at an electric generating plant regulated by the
5 23 nuclear regulatory commission, locomotives, off-road logging
5 24 equipment and machinery, and vehicles and equipment used
5 25 exclusively on an aircraft landing field.

5 26 Under the bill, the lowest designation of biodiesel blended
5 27 fuel that can be marketed is B=5. The bill provides for a
5 28 threshold period which requires that an increased percentage
5 29 of biodiesel be included in the biodiesel blended fuel. The
5 30 threshold period commences on July 1, 2012.

5 31 The bill also provides a number of exceptions. First, a
5 32 retail dealer is not required to market biodiesel blended fuel
5 33 designated as higher than B=5 during the cold weather months
5 34 beginning November 1 and ending March 31, unless the
5 35 department issues a cold weather suspension order for some or
6 1 all of those months. The cold weather suspension order may
6 2 establish a temporary biodiesel designation for the period of
6 3 the suspension. Secondly, the department may issue a
6 4 temporary order suspending biodiesel designation requirements
6 5 during the threshold period under two conditions: (1) less
6 6 than 5 percent of the biodiesel blended fuel expected to be
6 7 sold in this state during the threshold period will be
6 8 produced from a nontraditional feedstock, or (2) no
6 9 specification established by the United States environmental
6 10 protection agency or A.S.T.M. international applies to the
6 11 biodiesel designation. The department may issue a threshold
6 12 suspension order that applies during some or all of the
6 13 threshold period and may establish one or more temporary
6 14 biodiesel fuel designations applicable for the period. The
6 15 bill also provides that the department may suspend the
6 16 biodiesel fuel standard for motors under the control of the
6 17 nuclear regulatory commission.

6 18 The bill also provides that the governor may by executive
6 19 order adjust the biodiesel blended fuel designation under any
6 20 of three circumstances: (1) a major disparity exists between
6 21 the price of biodiesel blended fuel and diesel fuel; (2) there
6 22 is a significant shortage of biodiesel fuel supplies in this
6 23 state; or (3) a systemic market change will cause material
6 24 economic hardship to retail dealers. The governor must
6 25 establish an adjusted biodiesel blended fuel designation
6 26 during the threshold period.

6 27 EMERGENCY RULEMAKING AND EFFECTIVE DATE. The bill
6 28 authorizes the department of agriculture and land stewardship
6 29 to adopt rules by emergency and by notice of intended action
6 30 in order to implement the biodiesel fuel requirements. The
6 31 provision takes effect upon enactment.

6 32 DIVISION II == BIODIESEL FUEL LABELING. The bill provides
6 33 that a retail dealer who sells biodiesel fuel must affix a
6 34 decal to the motor fuel pump identifying the biodiesel fuel
6 35 when it contains a certain percentage of biodiesel as provided
7 1 by federal law, and specifically the federal trade commission.
7 2 The bill eliminates a state requirement that provides for the

7 3 general labeling of biodiesel fuel sold at motor fuel pumps
7 4 that contain any biodiesel.
7 5 DIVISION III == BIODIESEL BLENDED FUEL TAX CREDIT. The
7 6 bill eliminates provisions for a biodiesel blended fuel tax
7 7 credit available to a retail dealer of biodiesel blended fuel.
7 8 APPLICABLE PENALTIES. A person who violates a provision of
7 9 Code chapter 214A is guilty of a serious misdemeanor with each
7 10 day of a continuing violation consisting of a separate
7 11 offense. The state may also proceed against a person who
7 12 violates the Code chapter by bringing a civil enforcement
7 13 action as a contested case proceeding under Code chapter 17A
7 14 in lieu of a prosecution. A serious misdemeanor is punishable
7 15 by confinement for no more than one year and a fine of at
7 16 least \$315 but not more than \$1,875. The civil penalty shall
7 17 be for at least \$100 but not more than one \$1,000 for each
7 18 violation.
7 19 LSB 2135SZ 83
7 20 da/rj/14